HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION NO.11404 OF 2006

Between:
Bodipudi Prasad

..... Petitioner

AND

The Chief Electoral Officer,
General Administration (Elections) Department,
Government of Andhra Pradesh, Hyderabad
& others.

.....Respondents

:: O R D E R::

Counsel for the Petitioner : Shri K. Janardhana Rao

Counsel for Respondent Nos.1 and 2: Shri K.G.K. Prasad

Counsel for Respondent Nos. 3 to 6 : Government Pleader for Panchayat Raj

Dated: 27.07.2006

Per G.S.Singhvi, CJ

On 25.07.2006, a batch of 58 cases including this petition was listed before the Court. At the commencement of hearing, Shri V.V.Prabhakar Rao, Advocate representing the State Election Commission made a statement that the common prayer in all the cases is for issue of a direction to the respondents to decide their applications for inclusion of name in the voters' list and that the authorities concerned will deal with and decide such applications within a period of 48 hours and communicate the orders to the applicants-petitioners.

In view of the statement of Shri V.V.Prabhakar Rao, all the petitions were disposed of by a common order, which was dictated in the open court.

In the evening, the Court Master informed us that out of the batch of 58 petitions, 13 petitions contain different prayers. He pointed out that in some of the petitions, prayer has been made for inclusion in and exclusion from the voters' list and in some cases prayer has been made for issue of direction to the authority concerned to accept nomination paper. In one case, prayer is to quash the reservation of the office of Sarpanch.

In view of the submissions made by the Court Master, we directed that those 13 petitions shall not be included in the order passed in the open Court on 25.07.2006 and the same be listed on 27.07.2006 under the caption 'for being mentioned'. This is the reason why this petition has been listed today under that caption.

In this petition, the petitioner has prayed for issue of an

order, direction or writ more particularly one in the nature of mandamus declaring the action of the respondents in not taking steps to include the genuine voters in the voters' list even though the applications in form VI were submitted in the month of November 2005 and not deleting the bogus voters from the voters' list of Village Kanamarlapudi, Savalyaopuram Mandal, Guntur District illegal and arbitrary.

The writ petition was admitted by the learned Single Judge on 26.06.2006. Thereafter, the matter was ordered to be posted before the Division Bench.

We have heard learned counsel for the parties and perused the record. In our opinion, the petitioner has failed to make out a case for issue of directions in terms of the prayer made. The averments contained in the affidavit of petitioner Shri Bodupudi Prasad do not contain the particulars of the persons who are said to have made applications for inclusion of their names in the voters' list of Village Chintapallipadu. It is also silent about the names of the persons who are said to have been wrongfully included in the voters' list. Not only this, the petitioner has neither pleaded nor any material has been placed before the Court that any of the persons whose name has been wrongly excluded from the voters' list made an application in the prescribed form or lodged claim before the Electoral Registration Officer under Sections 22 or 23 of the Representation of the Peoples Act, 1950 in terms of proviso to Section 11 of the Andhra Pradesh Panchayat Raj Act, 1994 read with rule 6 of Andhra Pradesh Panchayat Raj (Preparation and Publication of Electoral Rolls) Rules, 2000. In the absence of these pleadings and any evidence to show that the aggrieved persons have made applications in the prescribed form

for inclusion of their names in the voters' list, it is not possible to issue a mandamus to the respondents to include the names of those unknown persons in the voters' list. Any such order by the Court will adversely affect the ongoing process of election and may also affect the result of election.

Insofar as the petitioner's prayer for exclusion of the names of some persons from the voters' list is concerned, we have no hesitation to reject the same because none of the persons whose names are sought to be excluded from the voters' list has been impleaded as party and without issuing notice and giving opportunity of hearing to those persons, no order prejudicially affecting their right to exercise franchise in the forthcoming elections can be passed.

For the reasons stated above, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.13905 of 2006 filed by the petitioner for issue of interim direction is also dismissed.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

27.07.2006
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